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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,727	04/04/2001	John Adam	450110-03113	4106
20999	7590	08/10/2004	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			MAURO JR, THOMAS J	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 08/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/825,727

Applicant(s)

ADAM, JOHN

Examiner

Thomas J. Mauro Jr.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20010404.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-13 are pending and are presented for examination. A formal action on the merits of claims 1-13 follows.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 5-6 and 8-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Birdwell (U.S. 6,041,359).

With respect to claim 1, Birdwell teaches a digital broadcasting arrangement comprising:
one or more content-originating client systems by which digital content for broadcast is originated [**Birdwell -- Figure 1 and Col. 3 lines 25-28 -- Multiple content servers contain data for broadcasting**]; and

a broadcast server system operable to receive digital content from said client systems and to broadcast that digital content for reception by end-users [**Birdwell -- Figure 1, Col. 7 lines 66-67 -- Col. 8 lines 1-9 and Col. 5 lines 6-13 -- Broadcast center receives content from content providers, generates a broadcast signal carrying the data and transmits the signal over network to clients, i.e. end-users**];

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in which:

said server system is operable to assign to each client system an access permission defining at least a time period and a digital data bandwidth available within that time period

[Birdwell -- Figures 2 and 3, Col. 5 lines 40-67 – Col. 6 lines 1-8 and lines 32-43 –

Reservation computing unit in broadcast center is responsible for assigning access permissions to each content provider including a set time period for transmission and bandwidth allocated for the transmission]; and

each client system is operable to define digital content for broadcast during said time period defined by said access permission assigned to that client system and scheduling control data defining said manner in which the digital content is to be broadcast during that time period **[Birdwell -- Col. 3 lines 32-45 and lines 63-64, Col. 5 lines 6-8 and lines 53-62 and Col. 6 lines 32-54 – Content server provide the data to the broadcasting center and specifies all scheduling parameters, including, time period, bandwidth and identification, i.e. server ID. Thus, the content providers specify the data to be broadcast at the time period which was allotted by the scheduler based upon the content provider's request].**

With respect to claim 2, Birdwell further teaches wherein said digital content comprises data representing a broadcast data service **[Birdwell -- Col. 3 lines 25-35 – Data, including audio, video, graphics, applications, text, hypermedia, etc... make up the digital content broadcasted].**

With respect to claim 5, Birdwell further teaches wherein each client system is operable to transfer said scheduling data to said server, said server scheduling said content for broadcast in accordance with said transferred scheduling data [**Birdwell -- Figure 3, Col. 5 lines 53-67 – Col. 6 lines 1-8 and lines 32-43 and Col. 6 lines 66-67 – Col. 7 lines 1-5 – Content providers send scheduling data, i.e. bandwidth desired and time period desired, to broadcast center for scheduling. Broadcast center schedules the request for broadcasting based upon request**].

With respect to claim 6, Birdwell further teaches wherein said server system, i.e. broadcast center, is linked to at least one of said client systems, i.e. content providers, by a remote data connection [**Birdwell -- Figure 1 and Col. 3 lines 28-32 and lines 46-62 – Broadcast center and content providers are linked together by a data network**].

With respect to claim 8, Birdwell teaches a client system for interacting with a broadcast server system in a digital broadcast arrangement,

said client system being operable to originate digital content for broadcast [**Birdwell -- Figure 1 and Col. 3 lines 25-28 – Multiple content servers contain data for broadcasting**];
and

said client system being operable to define digital content for broadcast during said time period defined by an access permission assigned to that client system by said broadcast server and scheduling control data defining said manner in which said digital content is to be broadcast during that time period [**Birdwell -- Col. 3 lines 32-45 and lines 63-64, Col. 5 lines 6-8 and lines 53-62 and Col. 6 lines 32-54 – Content server provide the data to the broadcasting**

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center and specifies all scheduling parameters, including, time period, bandwidth and identification, i.e. server ID. Thus, the content providers specify the data to be broadcast at the time period which was allotted by the scheduler based upon the content provider's request].

With respect to claim 9, Birdwell teaches a broadcast server system for interacting with one or more content-originating client systems in a digital broadcasting arrangement,

said broadcast server system being operable to receive digital content from said client system and to broadcast that digital content for reception by end-users **[Birdwell -- Figure 1, Col. 7 lines 66-67 – Col. 8 lines 1-9 and Col. 5 lines 6-13 – Broadcast center receives content from content providers, generates a broadcast signal carrying the data and transmits the signal over network to clients, i.e. end-users]; and**

said broadcast server system being operable to assign to each client system an access permission defining at least a time period and a digital data bandwidth available within that time period **[Birdwell -- Figures 2 and 3, Col. 5 lines 40-67 – Col. 6 lines 1-8 and lines 32-43 – Reservation computing unit in broadcast center is responsible for assigning access permissions to each content provider including a set time period for transmission and bandwidth allocated for the transmission].**

With respect to claim 10, Birdwell further teaches computer software which, when executed on data processing apparatus, causes said data processing apparatus to function as a

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server system [**Birdwell -- Col. 3 lines 35-45 -- Content providers are implemented as computers or workstations running an operating system and various other software**].

With respect to claim 12, Birdwell further teaches a storage medium by which the software is stored [**Birdwell -- Col. 3 lines 35-45 -- Content providers are implemented as computers or workstations running an operating system and various other software. In addition, they contain storage disks to house content and other data. Thus, the reference inherently teaches storage for storing software, i.e. operating system and other applications, for execution**].

With respect to claims 11 and 13, these claims are similar to claims 10 and 12 rejected above. Therefore, claims 11 and 13 are rejected under the same rationale.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Birdwell (U.S. 6,041,359) in view of Applicant's Admitted Prior Art (AAPA).

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Regarding claim 3, Birdwell teaches the invention substantially as claimed, as aforementioned in claim 2 above, but fails to explicitly teach wherein the data service conforms to said DVB data format.

Applicant has admitted that television services are broadcast using the well known DVB standard [**Specification -- Page 1 lines 8-9**] which is further described more in-depth in the background of the invention [**Specification -- Pages 1-2**].

Therefore, because this standard of broadcasting was admitted as being well-known at the time of the applicant's invention, it would have been obvious to incorporate this form of broadcasting into the invention of Birdwell in order to obtain greater data bandwidth [**Specification -- Page 1 lines 19-21**], which DVB provides.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Birdwell (U.S. 6,041,359) in view of Abensour et al. (U.S. 6,343,319).

Regarding claim 4, Birdwell teaches the invention substantially as claimed, as aforementioned in claim 1 above, including access permissions, i.e. time period for transmission and bandwidth allocated [**Birdwell -- Col. 6 lines 32-67 -- Col. 7 lines 1-5**].

Birdwell fails to explicitly teach an arrangement for repetitive broadcast using a carousel arrangement over a time period.

Abensour, however, discloses a curriculum lesson broadcast system which implements a carousel broadcast system which repeats the delivery every T_c cycle time [**Abensour -- Col. 3**].

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lines 45-67 – Col. 4 lines 1-12 and Col. 5 lines 23-55].

Both Birdwell and Abensour are concerned with broadcasting data to users over a communications network.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the repetitive carousel broadcast system, as taught by Abensour into the invention of Birdwell, in order to achieve interactivity in which no return channel is required **[Abensour -- Col. 5 lines 39-40].**

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Birdwell (U.S. 6,041,359).

Regarding claim 7, Birdwell teaches the invention substantially as claimed, as aforementioned in claim 1 above, but fails to explicitly teach wherein said content provider and said broadcast center are operated by different companies.

It is common practice and therefore well known and obvious that broadcasting centers receive their content from various providers which are separate from the broadcasting center company. Thus, the companies that supply the content, i.e. television programs, advertisements, data, etc, are different than the companies which broadcast it to end-users, i.e. consumers.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the content provider(s) and broadcast center(s) of Birdwell would be operated by two different companies in order to provide a variety of content programming in many different

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forms to satisfy the consumers requests and to keep them tuned to receive the broadcasted information.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Howe et al. (U.S. 6,567,982) discloses a system and method for providing interactive television services to subscribers over a broadcast network.
- Tantawy et al. (U.S. 6,597,891) discloses an on-demand data broadcasting system for selecting and downloading digital content from a library of data contents.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Mauro Jr. whose telephone number is 703-605-1234.

The examiner can normally be reached on M-F 8:00a.m. - 4:30p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



TJM

July 30, 2004



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